

III. Amendments to the Specification

(Paragraph on page 5, line 11)

The closing off an opening up of the chamber can be by simple displacement of the plunger i.e., the chamber has an opening of such dimensions at the side of the plunger that, when the plunger is pulled back to behind the chamber (i.e. is pulled to the rear end of the device, by which is meant the end facing away from the needle), an implant contained within the chamber will automatically fall into the plunger channel. It is also possible to make use of other forces than that of gravity, e.g. by providing the chamber, at the side facing away from the channel, with an elastic means such as a spring, which pushes the implant against the plunger when the chamber is closed off, and which makes the implant be pushed from the chamber into the channel when the plunger has been pulled back. Other means for the closing off of the chamber than just the plunger can be provided. Thus, other possibilities include a chamber closed off by an additional closing means, such as a door 10 which automatically or manually opens upon full withdrawal of the plunger, or any suitable mechanical, electronic or optical means steering the opening up of the chamber so that an implant contained therein can be displaced into the channel on or after the moment that the required space therein has become available by withdrawal of the plunger.

USSN 09/544683

4

As for the Examiner's contention that the phrase "the periphery of the plunger defining a chamber", Applicants question the accuracy of the Examiner's statement. Claims 1, 9, and 10 all state "the periphery of the plunger defining a channel", not a chamber. Webster's New World Dictionary, Third College Edition, defines "periphery" as outside surface or surrounding space. Further "defines" is defined to mean "sets the

USSN 09/544683

5

9. (Previously added) A preloadable implantation device (1) comprising a hollow needle (2) and a body (3) adjoining the needle, the body (3) comprising an elongated part (4) extending along the same axis as the needle (2), a plunger (5) that can be displaced within the elongated part (4) and the needle (2), the periphery of the plunger (5) defining a channel (6) in the elongated part (4), and a chamber (7) capable of holding an implant (8) upon preloading, characterized in that the chamber (7) is positioned radially outside the channel (6) and has a directly or indirectly open connection to the channel (6), the plunger (5) being capable of closing off and opening up the chamber (7) by being displaced.

10. (previously added) A preloadable implantation device (1) comprising a hollow needle (2) and a body (3) adjoining the needle, the body (3) comprising an elongated part (4) extending along the same axis as the needle (2), a plunger (5) that can be displaced within the elongated part (4) and the needle (2), the periphery of the plunger (5) defining a channel (6) in the elongated part (4), and a chamber (7) capable of containing an implant (8), characterized in that the chamber (7) is positioned radially outside the channel (6) and has a directly or indirectly open connection to the channel (6), the plunger (5) being capable of closing off and opening up the chamber (7) by being displaced.

boundaries or traces the outline of." Therefore, the periphery of the plunger, the outside surface of the plunger, fits within the channel, all of which is disclosed in the figures.

B. 35 USC §112, 1st ¶ Rejections

Claim 1 stands rejected under 35 USC §112, 1st ¶, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, has possession of the claimed invention. The Examiner states that he is unclear to what the Applicants are claiming with the phrase "and is closed from the outside after preloading." Applicants respectfully request reconsideration in light of this response.

Applicants have removed the limitation of "from the outside," thereby broadening the scope of the Claim. No estoppel should result from this amendment.

The Examiner further states that the specific structures for the door assembly of an embodiment is missing or unclear. Applicants respectfully assert that a door is a structure well known in the art. The embodiment depicted in Figure 1 already illustrates how the door is closed after preloading. Therefore, Applicants have disclosed a door and the structure is not missing or unclear. Accordingly, Applicants respectfully request reconsideration.

C. 35 USC §112, 2nd ¶ Rejections